

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-2, 7, 10, 13, 14-17 are currently being amended. Support for amendments can be found throughout the Specification and the original claims. No new matter is added.

Claims 18-20 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-20 are now pending in this application.

Claim Rejections under 35 U. S. C. § 103

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyden (US 2002/0143646) in view of Abhyanker (US 2002/0116305).

Applicants do not concede that any of the arguments made in the Office Action are proper. However, in the interest of expedience, Applicant amends, with no prejudice, the independent claims to better describe the invention.

The currently amended claim 1 recites "...part or all of a delivery charge for the auction commodity is to be borne by the dealer if the successful bidder purchases at least one commodity of the one or more dealer commodities together with the auction commodity." In other words, by purchasing the *dealer commodity* together with the auction commodity, the successful bidder is *charged less for or receive free delivery of the auction commodity*.

Boyden teaches an electronic auction of vehicles for sale; Abhyanker teaches soliciting bids for shipping services. Neither of Boyden and Abhyanker teaches a dealer

commodity offered for sale besides an auction commodity offered for bid. Of course, neither Boyden nor Abhyanker teaches that part or all of a delivery charge for the *auction commodity* is to be borne by the dealer (seller of the dealer commodity) if the successful bidder purchases the *dealer commodities* together with the auction commodity.

Thus, in contrast to claim 1, neither Boyden nor Abhyanker disclose "...part or all of a delivery charge for the auction commodity is to be borne by the dealer if the successful bidder purchases at least one commodity of the one or more dealer commodities together with the auction commodity." If the Examiner continues to rely on Boyden and Abhyanker to make the rejection, Applicants hereby respectfully request the Examiner to point out where this feature is shown in Boyden or Abhyanker.

Independent claims 2, 7, 10, 13, 15-17, and the dependent claims of the application, involve similar features and are distinguished on the same basis.

New Claims

New claim 18 depend from claim 1, new claim 19 depend from claim 15, new claim 20 depend from claim 16, and further recites "said server being configured to calculate, with respect to a charge to be paid to a distributor entrusted with the delivery of the delivery charge bearing object commodity and a charge to be paid to a distributor entrusted with the delivery of the auction commodity, the amount of the delivery charge to be borne in accordance with prices of the delivery charge bearing object commodity and the auction commodity, and configured to perform a sales process based on the calculated amount of the delivery charge to be borne; wherein the amount of the delivery charge borne by the dealer is dependent upon the dealer commodity that said successful bidder purchases together with the auction commodity". These features are not taught or suggested by the cited prior art of record when taken as a whole.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date March 17, 2009

By Phillip J. Articola Reg. No. 38,819

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6014
Facsimile: (202) 672-5399

for/ George C. Beck
Attorney for Applicant
Registration No. 38,072